

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

JOHN RIDRIGUEZ,
Plaintiff,

v.

DR. TRIVIKRAM, *et al.*
Defendants.

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CIVIL ACTION NO. 23-CV-3496

ORDER

AND NOW, this 23rd day of January, 2024, upon consideration of Plaintiff John Ridriguez's Motion to Proceed In Forma Pauperis (ECF No. 1), Prisoner Trust Fund Account Statement (ECF No. 6), and pro se Complaint (ECF No. 2), and for the reasons set out in the accompanying memorandum opinion, it is hereby **ORDERED** that:

1. Leave to proceed in forma pauperis is **GRANTED** pursuant to 28 U.S.C. § 1915.
2. John Ridriguez, #879271, shall pay the full filing fee of \$350 in installments, pursuant to 28 U.S.C. § 1915(b), regardless of the outcome of this case. The Court directs the Warden of Curran-Fromhold Correctional Facility or other appropriate official to assess an initial filing fee of 20% of the greater of (a) the average monthly deposits to Ridriguez's inmate account; or (b) the average monthly balance in Ridriguez's inmate account for the six-month period immediately preceding the filing of this case. The Warden or other appropriate official shall calculate, collect, and forward the initial payment assessed pursuant to this Order to the Court with a reference to the docket number for this case. In each succeeding month when the amount in Ridriguez's inmate trust fund account exceeds \$10.00, the Warden or other appropriate official shall forward payments to the Clerk of Court equaling 20% of the preceding month's income

credited to Ridriguez's inmate account until the fees are paid. Each payment shall refer to the docket number for this case.

3. The Clerk of Court is **DIRECTED** to send a copy of this Order to the Warden of Curran-Fromhold Correctional Facility.

4. The Complaint is **DEEMED** filed.

5. The following claims are **DISMISSED WITHOUT PREJUDICE** for failure to state a claim pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii):

- a. All official capacity claims against all Defendants;
- b. The individual capacity claims against Philadelphia Jail Warden Name N/A;
- c. All constitutional claims against Dr. Kanika Gupta and Dr. Bradley Fink.

6. The Clerk of Court is **DIRECTED** to send Ridriguez a blank copy of the Court's standard form complaint for prisoners to use to file a complaint bearing the above civil action number.

7. Ridriguez is given thirty (30) days to file an amended complaint in the event he can allege additional facts to cure the defects in the claims the Court has dismissed without prejudice. Any amended complaint shall identify all defendants in the caption of the amended complaint in addition to identifying them in the body of the amended complaint, shall state the basis for Ridriguez's claims against each defendant, and shall bear the title "Amended Complaint" and the case number 23-3496. If Ridriguez files an amended complaint, his amended complaint must be a complete document that includes all of the bases for Ridriguez's claims, including claims that the Court has not yet dismissed if he seeks to proceed on those claims. **Claims that are not included in the amended complaint will not be considered part of this case.** When drafting his amended

complaint, Ridriguez should be mindful of the Court's reasons for dismissing his claims as explained in the Court's Memorandum. Upon the filing of an amended complaint, the Clerk shall not make service until so **ORDERED** by the Court.

8. If Ridriguez does not file an amended complaint, the Court will direct service of his initial Complaint on Defendants Dr. Trivikram, Dr. Kanika Gupta, and Dr. Bradley Fink **only**. Ridriguez may also notify the Court that he seeks to proceed against these Defendants rather than file an amended complaint. If he files such a notice, Ridriguez is reminded to include the case number for this case, 23-3496.

9. The time to serve process under Federal Rule of Civil Procedure 4(m) is **EXTENDED** to the date 90 days after the Court issues summonses in this case if summonses are issued.

BY THE COURT:

/s/ Mitchell S. Goldberg

MITCHELL S. GOLDBERG, J.